

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(Crl.).No. 350 of 2015 (S)

PETITIONER(S) :

K.SURESH BABU, AGED 55 YEARS,
S/O.KUTTAN, SANGEETHA, SRAC-57, SANTHI NAGAR,
ATTINKUZHY, KAZHAKKOOTTAM,
THIRUVANANTHAPURAM - 695 582.

BY ADVS.SRI.BIJU BALAKRISHNAN
SMT.V.S.RAAKHEE
SMT.PRINCY XAVIER

RESPONDENT(S) :

1. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM,
PIN: 695 004.
2. DEPUTY SUPERINTENDENT OF POLICE,
ATTINGAL, THIRUVANANTHAPURAM DISTRICT, PIN: 695 101.
3. CIRCLE INSPECTOR OF POLICE,
KAZHAKKOOTTAM, THIRUVANANTHAPURAM, PIN: 695 582.
4. THE SUB INSPECTOR OF POLICE,
KAZHAKKOOTTAM, THIRUVANANTHAPURAM, PIN: 695 582.
5. V.VASANTHA, AGED 58 YEARS,
W/O.K.SASIDHARAN, REKHA BHAVAN, MENAMKULAM,
KAZHAKKOOTTAM P.O., THIRUVANANTHAPURAM - 695 582.

SPECIAL GOVERNMENT PLEADER SMT. SREELATHA PARAMESWARAN

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP (Cr1.) .No. 350 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

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P1: PHOTOSTAT COPY OF THE TRAIN TICKET OF THE MISSING PERSON.

P2: PHOTOSTAT COPY OF FIR NO.67/2015 DATED 14/6/2015 OF KATPADI POLICE STATION.

P3: PHOTOSTAT COPY OF NEWS EXTRACT THAT APPEARED IN MATHRUBHOOMI DAILY DATED 19/6/2015.

P4: PHOTOSTAT COPY OF NEWS EXTRACT THAT APPEARED IN MALAYALA MANORAMA DAILY DATED 19/6/2015.

P5: PHOTOSTAT COPY OF THE COMPLAINT GIVEN BY PETITIONER AND HIS BROTHERS DATED 21/7/2015.

P6: PHOTOSTAT COPY OF THE COMPLAINT DT. 20/7/2015 FILED BEFORE THE 2ND RESPONDENT.

P7: PHOTOSTAT COPY OF THE COMPLAINT DT. 21/7/2015 FILED BEFORE THE 4TH RESPONDENT.

RESPONDENT(S) ' EXHIBITS

: NIL

// True Copy//

P.A. to Judge

SS

**C.K. ABDUL REHIM &
K. RAMAKRISHNAN, JJ.**

W.P.(Crl.)No.350 of 2015

Dated this the 12th day of August, 2015

JUDGMENT

C.K. Abdul Rehim, J

The petitioner is seeking a writ of Habeas Corpus for directing production of the corpus of his brother Sri.K.Sasidharan, who is an Ayurvedic Doctor by profession, and to set him at liberty. The 5th respondent is the wife of the alleged detainee. According to the petitioner, his brother was last seen by his relatives on 10.05.2015, when he attended a family function at Thiruvananthapuram. It is stated that, the 5th respondent had informed that she along with the brother of the petitioner and their son had been to New Delhi. On their way back in a train (Kerala Express) from New Delhi to Thiruvananthapuram, brother of the petitioner was missed at Katpadi Railway Station in Tamil Nadu State, on 07.06.2015 at 11.55 p.m. According to the

5th respondent, the missing person went to the toilet in the train. But not returned back thereafter. Missing of the said person was realized only after the train had left Katpady Railway Station. Therefore the 5th respondent and her son got down at Jolarpett Railway Station and informed the matter to the Railway Police Force. Thereafter on the basis of a complaint lodged by the 5th respondent and her son, a case was registered at Katpady police station on 14.06.2015 as FIR No.67/2015. According to the petitioner, the enquiry conducted by the railway police had revealed that the missing person was not seen in the visuals of the CC TV, to prove that he had got down from the train at Katpady Railway Station. However, no information was received with respect to the brother of the petitioner thereafter.

2. According to the petitioner, there is mischievous circumstances with respect to missing of his brother and the version given by the 5th respondent cannot be believable. The petitioner suspects that his brother is in the illegal custody of some unknown person in

Thiruvananthapuram itself, and that the story put forth by the 5th respondent is false and misleading. According to the petitioner, the missing of his brother had occurred only with the knowledge and connivance of the 5th respondent, as is suspected. Under the above mentioned circumstances, the petitioner along with his siblings have submitted Ext.P5 complaint before the 1st respondent, with copy endorsed to respondents 2 and 4, as evidenced from Exts.P6 and P7. It is alleging that the police authorities are not taking any effective steps to trace out the missing person and on the basis of an apprehension that the life of the petitioner's brother is in danger, this writ petition is filed.

3. Heard the counsel appearing for the petitioner.

4. While considering averments contained in the writ petition this court takes note of the fact that, with respect to missing of the petitioner's brother a case has already been registered at Katpady police station in Tamil Nadu State and it is under investigation. There is evidence

to the effect that the petitioner and his siblings have submitted complaints to the police authorities in the State of Kerala requesting to make enquiry regarding missing of his brother. It is true that a vague allegation is made in the writ petition to the effect that the petitioner's brother is under custody of some unknown persons in Thiruvananthapuram itself. But we do not find any prima facie materials on basis of such an apprehension to consider that the petitioner's brother is under illegal confinement of any persons and there exists any circumstances warranting interference of this court for issuing a writ of Habeas Corpus for directing production of the corpus of the missing person.

5. We are of the considered opinion that the police authorities are duty bound to take effective steps to conduct requisite investigation about the missing of the petitioner's brother and to take earnest efforts to trace out the missing person. If there is any default, laches or reluctance on the part of the police authorities, either on

the side of respondents 1 to 4 herein or on the side of the police authorities in Tamil Nadu State, it is always left open to the petitioner to seek appropriate remedy as provided under law. At any rate, there is no materials available before this court to invoke jurisdiction under Article 226 for issuance of a writ of Habeas Corpus, on the premise that the missing person is illegally detained by anybody.

Under the above mentioned circumstances, this writ petition is dismissed without prejudice to the liberty of the petitioner to seek appropriate remedy before the appropriate court/forum for getting proper investigation done in the matter of missing of the petitioner's brother.

Sd/-
C.K. Abdul Rehim, Judge

Sd/-
K. Ramakrishnan, Judge

// True Copy //

P.A. to Judge